In the High Court of Punjab and Haryana at Chandigarh

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C.W.P. No.13893 of 2006

.....

Date of decision: 8.9.2006

Ram Kumar Sharma and another

.....Petitioners

v.

State of Punjab and others

.....Respondents

....

Coram: Hon'ble Mr. Justice S.S. Nijjar
Hon'ble Mr. Justice S.S. Saron

Present: Mr. V. Ramswaroop, Advocate for the petitioners.

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S.S. Nijjar, J. (Oral):

The petitioners are demanding grant of two advance increments in recognition of the meritorious service on the basis of which they were awarded President's Fire Service Medal. The petitioners also demand the grant of two increments in recognition of the commendable service performed while fighting a fire at Ludhiana in 1995. The respondents have considered the entire claim of the petitioners and rejected the claim by order dated 30.1.2006. The claim of the petitioners has been rejected on the basis of the Government instructions No.5730-Services-II 4(1)/68/20346 dated 5.8.1968. In these instructions it is provided that Government employees on showing commendable service in the discharge of duties can only be given a cash prize.

Mr. V. Ramswaroop, however, vehemently argues that the claim

of the petitioners is based on Regulation 4.10 of the Punjab Civil Service Rules. This regulation provides that subject to any general or special orders that may be made by the competent authority in this behalf, an authority may grant a premature increment. The claim for two increments is based on the earlier and later precedents than the claim of the petitioners. Learned counsel claims that if the benefit has been given to other similarly situated employees the petitioner is entitled to equal treatment. Non-grant of increments according to the learned counsel amounts to violation of Articles 14 and 16 of the Constitution of India.

We have considered the submissions made by the learned counsel. We have also perused the order passed by the Principal Secretary of Government. In our opinion, the Principal Secretary has reached a perfectly legal conclusion. He has observed in the impugned order that if any official was given benefit in disobedience of the Government policy, the same cannot be made basis, as two wrongs cannot make a thing right. In our opinion, the aforesaid view is unexceptionable in view of the law laid by the Supreme Court in Chandigarh Administration and another v. Jagjit Singh & another, (1995) 1 SCC 745. In the aforesaid judgment the Supreme Court has observed as follows:-

> "Generally speaking, the mere fact that the respondent-authority has passed a particular order in the case of another person similarly situated can never be the ground for issuing a writ in favour of the petitioner on the plea of discrimination. The order in favour of the other person might be legal and valid or it might not be. That has to be

investigated first before it can be directed to be followed in the case of the petitioner. If the order in favour of the other person is found to be contrary to law or not warranted in the facts and circumstances of this case, it is obvious that such illegal or unwarranted order cannot be made the basis of issuing a writ compelling the respondent-authority to repeat the illegality or to pass another unwarranted order. The extraordinary and discretionary power of the High Court cannot be exercised for such a purpose."

In view of the above observations, we find no merit in the writ petition. Dismissed.

(S.S. Nijjar)
Judge

September 8, 2006.

(S.S. Saron)
Judge

hsp